

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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Writ Petition No.30214 of 1997

DATED 9-4-2007

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BETWEEN

Mohd.Yousuf

.. Petitioner

And

Senior Scientist (Horticulture),
Fruit Research Station, Sanga Reddy,
Medak District and 3 others.

.. Respondents

THE HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

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WRIT PETITION NO.30214 of 1997

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ORDER:

This writ petition is filed seeking to set aside the order dated 5.11.1997 passed by the 1st respondent in proceedings No.FRS/Estt/97/577.

The petitioner joined service as a casual labourer, on daily wages, on 19.6.1979. By order dated 12.10.1995, his services were regularized in a class IV post as an Agricultural Worker. He was issued show cause notice dated 1.10.1997 informing him that, in the seniority list prepared in the year 1988, it was shown that he was engaged as a casual labourer on 19.6.1979 and Sri Malliah on 3.7.79 though the date of his initial entry as a casual labour was

much prior thereto and, therefore, Sri Mallaiah was senior to the petitioner and hence the petitioner's services were liable to be terminated.

On receipt of the petitioner's explanation dated 31.10.1997, the 1st respondent held that his contention that he was senior to Sri Mallaiah was not correct since, as per the Attendance Register, Sri Mallaiah was enrolled as a casual labourer from 12.6.1979 whereas the petitioner was on the rolls only thereafter from 19.6.1979 and, according to the terms and conditions stipulated in proceedings dated 12.10.1995, the services of the petitioner were being terminated with immediate effect.

Sri G.Ravi Mohan, learned counsel for the petitioner would submit that the petitioner has since been regularized as an Agricultural Worker in February 1998, and that the only consequence of the impugned order being set aside, would be that the petitioner would be entitled to have his seniority reckoned, treating the date of his regularization as 12.10.1995 instead of February 1998. Learned counsel would submit that the conclusions drawn by the 1st respondent, that Sri Mallaiah was senior to the petitioner were erroneous and that there is no adequate documentary evidence to show that the petitioner was, in fact, senior to Sri Mallaiah. This fact is however disputed in the counter affidavit.

Sri M.Rama Rao, learned counsel for the 3rd respondent, would also assert that Sri Mallaiah is senior to the petitioner herein since the date of his entry into the services of the respondent University was 12.6.1979, while the petitioner's date of entry into the

services of the respondent University was 19.6.1979.

It is well settled that this Court, in exercise of its jurisdiction under Article 226 of the Constitution of India, would not adjudicate disputed questions of fact. Therefore, the contention raised by Sri G.Ravi Mohan that, in fact, the petitioner was senior to Sri Mallaiah and was engaged as a casual labourer prior to Sri Mallaiah does not call for examination in this writ petition.

Sri G.Ravi Mohan, learned counsel for the petitioner, would further contend that even if it were to be assumed that Sri Mallaiah is senior to the petitioner, a perusal of the proceedings dated 12.10.1995 would show that the initial engagement of Sri. Narsimulu and Sri Venkatesh who were regularized along with the petitioner on 12.10.1995 was subsequent to the petitioner's first engagement. Learned counsel would point out that, while Sri Narsimhulu was first engaged as a casual labourer on 27.7.1979, Sri Venkatesh was first engaged on 8.7.1985. Learned counsel would contend that, since both Sri Narsimhulu and Sri Venkatesh were continued in service as regular agricultural workmen consequent upon their regularization, vide proceedings dated 12.10.1995, the petitioner, who was admittedly senior to them ought not to have been terminated from service.

While this submission of Sri G.Ravi Mohan, learned counsel for the petitioner, cannot be said to be without merit, it cannot however be lost sight of that the proceedings dated 12.10.1995 would also reveal that Sri Narsimhulu belongs to Scheduled Caste category and Sri Venkataiah belongs to Scheduled Tribe category

whereas the petitioner belongs to BC-B category. If the services of the petitioner, Sri Narsimulu and Sri Venkataiah had been regularized, vide proceedings dated 12.10.1995, without application of the rule of reservation, the petitioner would then be justified in contending that he, being senior to Sri Narsimulu and Sri Venkataiah, ought not to have been terminated from service and that he should have been continued as a regular agricultural workmen even if Sri Mallaiah was found to be senior to him and that Sri Venkataiah who was junior to all of them, ought to have been terminated. It is, however, not clear as to whether the rule of reservation was applied while regularizing the services of casual labourers as agricultural workmen. In the absence of any pleading in this regard, I see no reason to adjudicate this question.

Ends of justice would be met if the petitioner is permitted to file a detailed representation placing all the details/particulars in support of his contention that his date of regularisation should have been 12.10.1995, instead of February 1998, and the 2nd respondent is directed to consider the representation in accordance with law and pass appropriate orders thereupon within a specified time frame.

Sri G.Ravi Mohan, learned counsel for the petitioner would submit that the petitioner would make such a representation within two weeks from the date of receipt of a copy of this order. There shall be a direction to the 2nd respondent to consider the petitioner's representation and pass appropriate orders in accordance with law within a period of two months from the date of receipt of the representation of the petitioner.

The writ petition is disposed of accordingly. However, in the circumstances, without costs.

RAMESH RANGANATHAN,J

Dt:9.4.2007
msv.